LCO No. 2744

## AN ACT CONCERNING HOUSING OPPORTUNITIES FOR JUSTICE-IMPACTED PERSONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 46a-64b of the general statutes is repealed and the
- 2 following is substituted in lieu thereof (*Effective October 1, 2020*):
- 3 As used in sections 46a-51 to 46a-99, inclusive, as amended by this
- 4 act, and section 2 of this act:
- 5 (1) "Conviction" means a judgment entered by a court upon a plea of
- 6 guilty, a plea of nolo contendere or a finding of guilty by a jury or the
- 7 court, notwithstanding any pending appeal or habeas corpus
- 8 proceeding arising from such judgment.
- 9 [(1)] (2) "Discriminatory housing practice" means any discriminatory
- practice specified in section 46a-64c, section 2 of this act or section 46a-
- 11 81e.
- 12 [(2)] (3) "Dwelling" means any building, structure, mobile
- manufactured home park or portion thereof which is occupied as, or
- 14 designed or intended for occupancy as, a residence by one or more
- 15 families, and any vacant land which is offered for sale or lease for the
- 16 construction or location thereon of any such building, structure, mobile
- 17 manufactured home park or portion thereof.

- [(3)] (4) "Fair Housing Act" means Title VIII of the Civil Rights Act of 19 1968, as amended, and known as the federal Fair Housing Act (42 USC 20 3600-3620).
- 21 [(4)] (5) "Family" includes a single individual.
- [(5)] (6) "Familial status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals; or the designee of such parent or other person having such custody with the written permission of such parent or other person; or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.
  - [(6)] (7) "Housing for older persons" means housing: (A) Provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; [or] (B) intended for, and solely occupied by, persons sixty-two years of age or older; or (C) intended and operated for occupancy by at least one person fifty-five years of age or older per unit in accordance with the standards set forth in the Fair Housing Act and regulations developed pursuant thereto by the Secretary of the United States Department of Housing and Urban Development.
- (8) "Housing provider" means a landlord or owner, an agent of such
  landlord or owner, a realtor, property manager, housing authority, as
  created in section 8-40, public housing agency or other entity that
  provides dwelling units to potential tenants.
- 43 (9) "Landlord" means the owner, lessor or sublessor of the dwelling 44 unit, the building of which it is a part or the premises.
- [(7)] (10) "Mobile manufactured home park" means a plot of land upon which two or more mobile manufactured homes occupied for residential purposes are located.

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- (11) "Owner" means one or more persons, jointly or severally, in 49 whom is vested (A) all or part of the legal title to property, or (B) all or 50 part of the beneficial ownership and a right to present use and enjoyment of the premises and includes a mortgagee in possession.
  - [(8)] (12) "Physical or mental disability" includes, but is not limited to, intellectual disability, as defined in section 1-1g, and physical disability, as defined in subdivision (15) of section 46a-51, and also includes, but is not limited to, persons who have a handicap as that term is defined in the Fair Housing Act.
  - [(9)] (13) "Residential-real-estate-related transaction" means (A) the making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a dwelling, or secured by residential real estate; or (B) the selling, brokering or appraising of residential real property.
  - [(10)] (14) "To rent" includes to lease, to sublease, to let and to otherwise grant for a consideration the right to occupy premises not owned by the occupant.
  - Sec. 2. (NEW) (Effective October 1, 2020) (a) Except as provided in subsections (f) and (g) of this section, it shall be a discriminatory practice in violation of this section to refuse to rent after the making of a bona fide offer, or to refuse to negotiate for the rental of, or otherwise make unavailable or deny a rental unit or deny occupancy in a rental unit to any person based on such person's criminal record, except for conviction for the commission of a felony or misdemeanor described in subsection (b) of this section during the ten years immediately preceding the rental application.
  - (b) Within the ten-year period specified in subsection (a) of this section, a housing provider may only consider a criminal conviction of any person for the commission of a felony or misdemeanor that, if repeated, would adversely affect the health, safety or welfare of other tenants, including, but not limited to, a crime of physical violence to

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persons or property. In ascertaining whether an applicant has committed a crime, a housing provider shall comply with all applicable laws, including, but not limited to, the Fair Credit Reporting Act, 15 USC 1681, as amended from time to time. In no case may (1) an official or unofficial record of an arrest or a charge or other allegation of a criminal act not followed by a conviction, (2) a violation of a condition of probation or parole resulting from conduct that would not be criminal if it were not prohibited by such condition, (3) a record of a conviction that has been erased, or (4) a conviction for conduct that occurred when the applicant was a minor, be used as a basis to reject an applicant's rental application.

(c) Prior to denying a rental application pursuant to this section, a housing provider shall provide written notice to the applicant that the application requires further review due to the applicant's criminal conviction. The housing provider shall provide the applicant at least five business days in which to respond to the notice and present relevant mitigating information regarding the conviction and evidence that the applicant would be a good tenant. Such evidence may include, but is not limited to, the following factors: (1) The nature and severity of the criminal offense; (2) the facts or circumstances surrounding the criminal conduct; (3) the age of the applicant at the time of the offense; (4) the length of time elapsed since the offense; (5) evidence the applicant has maintained a good tenant history before or after the offense; (6) the applicant's employment status; (7) any volunteer or charitable activities the applicant has engaged in; (8) any information produced by the applicant, or produced on the applicant's behalf, in regard to the applicant's rehabilitation, good character or good conduct since the offense; and (9) any other evidence that the offense is unlikely to reoccur. If, after consideration of evidence relevant to the factors set forth in this subsection, the housing provider rejects an applicant's rental application based on the conviction of a crime, the housing provider shall give a written explanation for such rejection and specifically state the evidence presented and reasons for rejection. The housing provider shall send a copy of such rejection by registered mail

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- to the applicant at the address provided in the rental application and shall retain a copy of such rejection for at least two years from the time
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- 116 (d) If a dwelling unit becomes unavailable after the housing provider 117 has received an application but before the housing provider has made a 118 determination on whether to deny the application pursuant to 119 subsections (b) and (c) of this section, the housing provider shall 120 evaluate the application to determine whether the application would 121 have been denied pursuant to subsections (b) and (c) of this section. If a denial of the application would violate the provisions of this section, the 122 123 housing provider shall consider the applicant for the housing provider's 124 next available dwelling unit. A housing provider shall retain any rental 125 application received and records concerning how each was dealt with, 126 for not less than two years after receiving such application.
- 127 (e) Except as provided in subsections (f) and (g) of this section, it shall 128 be a discriminatory practice in violation of this section:
  - (1) To discriminate against any person in the terms, conditions or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of such person's criminal conviction status;
- 133 (2) To make, print or publish, or cause to be made, printed or 134 published any notice, statement or advertisement, with respect to the 135 rental of a dwelling that indicates any preference, limitation or 136 discrimination based on criminal conviction status, or an intention to 137 make any such preference, limitation or discrimination;
- 138 (3) To represent to any person because of criminal conviction status 139 that any dwelling is not available for inspection or rental when such 140 dwelling is in fact so available; and
- 141 (4) To inquire about an applicant's prior arrests, criminal charges or 142 convictions on an initial application for rental of a dwelling unless

required to do so by federal law.

- (f) The provisions of this section shall not apply to a person who applies for public housing who has a conviction for manufacture or production of methamphetamine on the premises of federally assisted housing, or to a person subject to a lifetime registration requirement under a state registration program pursuant to 24 CFR 960.204 and 24 CFR 982.553. Nothing in this section shall be construed to limit the applicability of 24 CFR 960.204 or 24 CFR 982.553 with regard to a public housing authority.
  - (g) The provisions of this section shall not apply to (1) the rental of a room or rooms in a single-family dwelling unit if the owner actually maintains and occupies part of such unit as his or her residence, or (2) a unit in a dwelling containing not more than four units if the owner actually maintains and occupies one of such other units as his or her residence.
  - (h) Nothing in this section limits the applicability of any reasonable state statute or municipal ordinance restricting the maximum number of persons permitted to occupy a dwelling.
  - (i) Any person aggrieved by a violation of this section may file a complaint not later than one hundred eighty days after the alleged act of discrimination, pursuant to section 46a-82 of the general statutes, as amended by this act.
  - (j) Notwithstanding any other provision of chapter 814c of the general statutes, complaints alleging a violation of this section shall be investigated not later than one hundred days after filing and a final administrative disposition shall be made not later than one year after filing unless it is impracticable to do so. If the Commission on Human Rights and Opportunities is unable to complete its investigation or make a final administrative determination within such time frames, it shall notify the complainant and the respondent in writing of the reasons for not doing so.

- (k) Not later than November 1, 2020, the Commission on Human Rights and Opportunities shall post, and thereafter update as necessary, a model form on its Internet web site for housing providers to use in evaluating evidence and other information received under subsection (c) of this section.
- 179 Sec. 3. Section 8-45a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

A housing authority, as defined in subsection (b) of section 8-39, in determining eligibility for the rental of public housing units may establish criteria and consider relevant information concerning (1) an applicant's or any proposed occupant's history of criminal activity, during the time periods established under subsection (a) of section 2 of this act, involving: (A) Crimes of physical violence to persons or property, (B) crimes involving the illegal manufacture, sale, distribution or use of, or possession with intent to manufacture, sell, use or distribute, a controlled substance, as defined in section 21a-240, or (C) other criminal acts which would adversely affect the health, safety or welfare of other tenants, (2) an applicant's or any proposed occupant's abuse, or pattern of abuse, of alcohol when the housing authority has reasonable cause to believe that such applicant's or proposed occupant's abuse, or pattern of abuse, of alcohol may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, and (3) an applicant or any proposed occupant who is subject to a lifetime registration requirement under section 54-252 on account of being convicted or found not guilty by reason of mental disease or defect of a sexually violent offense. In evaluating any such information, the housing authority shall give consideration to the time, nature and extent of the applicant's or proposed occupant's conduct and to factors which might indicate a reasonable probability of favorable future conduct such as evidence of rehabilitation and evidence of the willingness of the applicant, the applicant's family or the proposed occupant to participate in social service or other appropriate counseling programs and the availability of such programs.

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- Sec. 4. Subdivision (8) of section 46a-51 of the 2020 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):
- 210 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-
- 211 60a, 4a-60g, 31-40y, subparagraph (C) of subdivision (15) of section 46a-
- 212 54, subdivisions (16) and (17) of section 46a-54, section 46a-58, 46a-59,
- 213 46a-60, 46a-64, 46a-64c, <u>section 2 of this act, section</u> 46a-66, 46a-68, 46a-
- 214 68c to 46a-68f, inclusive, or 46a-70 to 46a-78, inclusive, subsection (a) of
- section 46a-80 or sections 46a-81b to 46a-81o, inclusive;
- Sec. 5. Subdivision (14) of section 46a-54 of the 2020 supplement to
- 217 the general statutes is repealed and the following is substituted in lieu
- 218 thereof (*Effective October 1, 2020*):
- 219 (14) To require the posting, by any respondent or other person subject
- 220 to the requirements of section 46a-64, 46a-64c, section 2 of this act,
- 221 <u>section</u> 46a-81d or 46a-81e, of such notices of statutory provisions as it
- 222 deems desirable;
- Sec. 6. Section 46a-74 of the general statutes is repealed and the
- following is substituted in lieu thereof (*Effective October 1, 2020*):
- No state department, board or agency may permit any
- discriminatory practice in violation of section 46a-59, 46a-64, [or] 46a-
- 227 64c or section 2 of this act.
- Sec. 7. Subsection (a) of section 46a-82 of the 2020 supplement to the
- 229 general statutes is repealed and the following is substituted in lieu
- 230 thereof (Effective October 1, 2020):
- 231 (a) Any person claiming to be aggrieved by an alleged discriminatory
- practice, except for an alleged violation of section 4a-60g or 46a-68 or the
- provisions of sections 46a-68c to 46a-68f, inclusive, may, by himself or
- 234 herself or by such person's attorney, file with the commission a
- complaint in writing under oath, except that a complaint that alleges a
- violation of section 46a-64c <u>or section 2 of this act</u> need not be notarized.

237 The complaint shall state the name and address of the person alleged to 238 have committed the discriminatory practice, provide a short and plain 239 statement of the allegations upon which the claim is based and contain 240 such other information as may be required by the commission. After the 241 filing of a complaint, the commission shall provide the complainant 242 with a notice that: (1) Acknowledges receipt of the complaint; and (2) 243 advises of the time frames and choice of forums available under this 244 chapter.

- Sec. 8. Subsections (a) to (c), inclusive, of section 46a-83 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):
  - (a) Not later than fifteen days after the date of filing of any discriminatory practice complaint pursuant to subsection (a) or (b) of section 46a-82, as amended by this act, or an amendment to such complaint adding an additional respondent, the commission shall serve the respondent as provided in section 46a-86a with the complaint and a notice advising of the procedural rights and obligations of a respondent under this chapter. The respondent shall either (1) file a written answer to the complaint as provided in subsection (b) of this section, or (2) not later than ten days after the date of receipt of the complaint, provide written notice to the complainant and the commission that the respondent has elected to participate in pre-answer conciliation, except that a discriminatory practice complaint alleging a violation of section 46a-64c, section 2 of this act or section 46a-81e shall not be subject to preanswer conciliation. A complaint sent by first class mail shall be considered to be received not later than two days after the date of mailing, unless the respondent proves otherwise. The commission shall conduct a pre-answer conciliation conference not later than thirty days after the date of receiving the respondent's request for pre-answer conciliation.
  - (b) Except as provided in this subsection, not later than thirty days after the date (1) of receipt of the complaint, or (2) on which the

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commission determines that the pre-answer conciliation conference was unsuccessful, the respondent shall file a written answer to the complaint, under oath, with the commission. The respondent may request, and the commission may grant, one extension of time of not more than fifteen days within which to file a written answer to the complaint. An answer to any amendment to a complaint shall be filed within twenty days of the date of receipt to such amendment. The answer to any complaint alleging a violation of section 46a-64c, section 2 of this act or section 46a-81e shall be filed not later than ten days after the date of receipt of the complaint.

(c) Not later than sixty days after the date of the filing of the respondent's answer, the executive director or the executive director's designee shall conduct a case assessment review to determine whether the complaint should be retained for further processing or dismissed because (1) it fails to state a claim for relief or is frivolous on its face, (2) the respondent is exempt from the provisions of this chapter, or (3) there is no reasonable possibility that investigating the complaint will result in a finding of reasonable cause. The case assessment review shall include the complaint, the respondent's answer and the responses to the commission's requests for information, and the complainant's comments, if any, to the respondent's answer and information responses. The executive director or the executive director's designee shall send notice of any action taken pursuant to the case assessment review in accordance with section 46a-86a. For any complaint dismissed pursuant to this subsection, the executive director or the executive director's designee shall issue a release of jurisdiction allowing the complainant to bring a civil action under section 46a-100. This subsection and subsection (e) of this section shall not apply to any complaint alleging a violation of section 46a-64c, section 2 of this act or section 46a-81e. The executive director shall report the results of the case assessment reviews made pursuant to this subsection to the commission quarterly during each year.

Sec. 9. Subdivision (2) of subsection (g) of section 46a-83 of the general

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statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

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(2) If the investigator makes a finding that there is reasonable cause to believe that a violation of section 46a-64c or section 2 of this act has occurred, the complainant and the respondent shall have twenty days from sending of the reasonable cause finding to elect a civil action in lieu of an administrative hearing pursuant to section 46a-84. If either the complainant or the respondent requests a civil action, the commission, through the Attorney General or a commission legal counsel, shall commence an action pursuant to subsection (b) of section 46a-89, as amended by this act, not later than ninety days after the date of receipt of the notice of election. If the Attorney General or a commission legal counsel believes that injunctive relief, punitive damages or a civil penalty would be appropriate, such relief, damages or penalty may also be sought. The jurisdiction of the Superior Court in an action brought under this subdivision shall be limited to such claims, counterclaims, defenses or the like that could be presented at an administrative hearing before the commission, had the complaint remained with the commission for disposition. A complainant may intervene as a matter of right in a civil action without permission of the court or the parties. If the Attorney General or commission legal counsel, as the case may be, determines that the interests of the state will not be adversely affected, the complainant or attorney for the complainant shall present all or part of the case in support of the complaint. If the Attorney General or a commission legal counsel determines that a material mistake of law or fact has been made in the finding of reasonable cause, the Attorney General or a commission legal counsel may decline to bring a civil action and shall remand the file to the investigator for further action. The investigator shall complete any such action not later than ninety days after receipt of such file.

Sec. 10. Subsection (c) of section 46a-86 of the 2020 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

- 335 (c) In addition to any other action taken under this section, upon a 336 finding of a discriminatory practice prohibited by section 46a-58, 46a-337 59, 46a-64, 46a-64c, section 2 of this act, section 46a-81b, 46a-81d or 46a-338 81e, the presiding officer shall determine the damage suffered by the 339 complainant, which damage shall include, but not be limited to, the 340 expense incurred by the complainant for obtaining alternate housing or 341 space, storage of goods and effects, moving costs and other costs 342 actually incurred by the complainant as a result of such discriminatory 343 practice and shall allow reasonable attorney's fees and costs. The 344 amount of attorney's fees allowed shall not be contingent upon the 345 amount of damages requested by or awarded to the complainant.
- Sec. 11. Subdivision (1) of subsection (b) of section 46a-89 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):
  - (b) (1) Whenever a complaint filed pursuant to section 46a-82, as amended by this act, alleges a violation of section 46a-64, 46a-64c, section 2 of this act, section 46a-81d or 46a-81e, and the commission believes that injunctive relief is required or that the imposition of punitive damages or a civil penalty would be appropriate, the commission may bring a petition in the superior court for the judicial district in which the discriminatory practice which is the subject of the complaint occurred or the judicial district in which the respondent resides.
- Sec. 12. Subsection (b) of section 46a-90a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October* 1, 2020):
  - (b) When the presiding officer finds that the respondent has engaged in any discriminatory practice prohibited by section 46a-60, 46a-64, 46a-64c, 46a-81c, section 2 of this act, section 46a-81d or 46a-81e and grants relief on the complaint, requiring that a temporary injunction remain in effect, the executive director may, through the procedure outlined in subsection (a) of section 46a-95, petition the court which granted the

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original temporary injunction to make the injunction permanent.

Sec. 13. Section 46a-98a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

Any person claiming to be aggrieved by a violation of section 46a-64c, section 2 of this act or section 46a-81e or by a breach of a conciliation agreement entered into pursuant to this chapter, may bring an action in the Superior Court, or the housing session of said court if appropriate within one year of the date of the alleged discriminatory practice or of a breach of a conciliation agreement entered into pursuant to this chapter. No action pursuant to this section may be brought in the Superior Court regarding the alleged discriminatory practice after the commission has obtained a conciliation agreement pursuant to section 46a-83, as amended by this act, or commenced a hearing pursuant to section 46a-84, except for an action to enforce the conciliation agreement. The court shall have the power to grant relief, by injunction or otherwise, as it deems just and suitable. The court may grant any relief which a presiding officer may grant in a proceeding under section 46a-86, as amended by this act, or which the court may grant in a proceeding under section 46a-89, as amended by this act. The commission, through commission legal counsel or the Attorney General, may intervene as a matter of right in any action brought pursuant to this section without permission of the court or the parties.

- Sec. 14. Subdivision (1) of subsection (a) of section 47a-23c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):
- (a) (1) Except as provided in subdivision (2) of this subsection, this section applies to any tenant who resides in a building or complex consisting of five or more separate dwelling units or who resides in a mobile manufactured home park and who is either: (A) Sixty-two years of age or older, or whose spouse, sibling, parent or grandparent is sixty-two years of age or older and permanently resides with that tenant, or (B) a person with a physical or mental disability, as defined in

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subdivision [(8)] (12) of section 46a-64b, <u>as amended by this act</u>, or whose spouse, sibling, child, parent or grandparent is a person with a physical or mental disability who permanently resides with that tenant, but only if such disability can be expected to result in death or to last for a continuous period of at least twelve months.

This act shall take effect as follows and shall amend the following		
sections:		
Section 1	October 1, 2020	46a-64b
Sec. 2	<i>October 1, 2020</i>	New section
Sec. 3	<i>October 1, 2020</i>	8-45a
Sec. 4	October 1, 2020	46a-51(8)
Sec. 5	October 1, 2020	46a-54(14)
Sec. 6	October 1, 2020	46a-74
Sec. 7	October 1, 2020	46a-82(a)
Sec. 8	October 1, 2020	46a-83(a) to (c)
Sec. 9	October 1, 2020	46a-83(g)(2)
Sec. 10	October 1, 2020	46a-86(c)
Sec. 11	October 1, 2020	46a-89(b)(1)
Sec. 12	October 1, 2020	46a-90a(b)
Sec. 13	October 1, 2020	46a-98a
Sec. 14	October 1, 2020	47a-23c(a)(1)